

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In Re:

Roger S Agustin and
Uma P Agustin,
Debtors.

Case No. 17-28116

Chapter 13

Honorable A. Benjamin Goldgar

NOTICE OF MOTION

TO: See attached Service List

On February 21, 2020 at 9:30 a.m., I shall appear before Bankruptcy Judge A. Benjamin Goldgar, Park City Branch Court, 301 S. Greenleaf Avenue, Courtroom B, Park City, IL 60085, or in his absence, before such other Bankruptcy Judge as may be presiding in his place and stead, and shall then and there present the attached Motion for Relief from the Automatic Stay or in the Alternative Motion to Dismiss filed by JPMorgan Chase Bank, National Association, at which time and place you may appear if you so see fit.

FAIQ MIHLAR (#6274089)
HEATHER M. GIANNINO (#6299848)
AMANDA J. WIESE (#6320552)
CHERYL CONSIDINE (#6242779)
SEAN D. JORDAN (#6307449)
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STATE OF ILLINOIS
COUNTY OF MACON

I, Amanda J. Wiese, an attorney, being first duly sworn upon oath, depose and state I have served the above and foregoing Notice, together with all required papers, upon the above-named parties, as to the Trustee and Debtors' attorney via electronic notice on February 11, 2020, and as to the Debtors by placing same in an envelope addressed as shown above, and depositing same First Class Mail, postage prepaid in the United States mailbox at Decatur, Illinois 62523 this 11th day of February, 2020.

/s/ Amanda J. Wiese

Amanda J. Wiese

SERVICE LIST

Service by Mail:

Roger S Agustin
2367 N Fox Chase Drive
Round Lake Beach, IL 60073

Uma P Agustin
2367 N Fox Chase Drive
Round Lake Beach, IL 60073

Service by Electronic Notice through ECF:

David M Siegel
David M. Siegel & Associates
790 Chaddick Drive
Wheeling, IL 60090

Glenn B. Stearns
801 Warrenville Road, Suite 650
Lisle, IL 60532

Patrick S. Layng
United States Trustee (Region 11)
219 S. Dearborn Street Room 873
Chicago, IL 60604

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE
MOTION TO DISMISS**

NOW COMES JPMorgan Chase Bank, National Association ("Movant"), by and through its attorneys, Heavner, Beyers & Mihlar, LLC, and hereby moves this Court for an entry of an order for relief from the automatic stay, pursuant to 11 U.S.C. §362, with respect to certain real property of the Debtors having an address of 2367 N Fox Chase Dr, Round Lake Beach, Illinois 60073-4186 ("Property"); or in the alternative, grant dismissal of this Chapter 13 Bankruptcy. The Required Statement is attached hereto as Exhibit "A", in accordance with Local Rule 4001-1. In further support of this Motion, Movant respectfully states:

1. Debtors filed a petition under Chapter 13 of the United States Bankruptcy Code on September 20, 2017.
2. The Debtors have executed and delivered or are otherwise obligated with respect to a Note in the original principal amount of \$25,000.00 ("Note"). Movant is an entity entitled to enforce the Note.
3. Movant is a secured creditor by virtue of a Note secured by a Mortgage on the Property commonly known as 2367 N Fox Chase Dr, Round Lake Beach, Illinois 60073-4186.
4. Said Mortgage was recorded on October 3, 2005, in the Recorder's Office of Lake County, Illinois, as Document Number 5868527 ("Mortgage"). A copy of the Note and Mortgage are attached hereto and made a part hereof as Exhibit "B" and Exhibit "C", respectively.
5. The Debtors are the owners or occupants of said Property and said Property was included in the Debtors' Bankruptcy Petition. Said Property is the Debtors' principal residence.
6. Glenn B. Stearns is the Trustee duly appointed by law.

7. As of January 29, 2020, the unpaid principal balance on the Note and Mortgage is \$19,889.29.

8. The estimated market value of the property is \$222,000.00. The basis for such valuation is the Debtors' Schedules.

9. The payoff of the additional lien on said Property is estimated to be \$146,732.00. The basis for such estimation is the Debtors' Schedules.

10. Upon information and belief, the aggregate amount of encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, is \$166,621.29.

11. Pursuant to 11 U.S.C. §362(d), cause exists to grant Movant relief from the automatic stay for the following reasons:

A. Movant's interest in the Property is not adequately protected as there is a continuing daily increase in the total amount outstanding and chargeable against said Property for interest and costs due under the Note and Mortgage.

B. Post-petition mortgage payments due on the Note secured by a Mortgage on the Property have not been made to Movant.

C. The Debtors are past due for the November 1, 2019 post-petition payment and all amounts coming due since that date. The following chart sets forth the number and amount of post-petition payments due pursuant to the Note and Mortgage that have been missed by the Debtors. A copy of the post-petition payment history is attached hereto and made a part hereof as Exhibit "D".

Number of Delinquent Payments	From	To	Monthly Payment Amount	Total Amounts Delinquent
3	11/1/19	1/1/20	\$84.07	\$252.21
Less postpetition partial payments:				\$0.00

Total: \$252.21

12. The failure of the Debtors to make post-confirmation plan payments constitutes a material default under the plan and is grounds for dismissal of this Chapter 13 case, pursuant to 11 U.S.C. §1307(c).

WHEREFORE, Movant prays that this court enter an order terminating or modifying the automatic stay and granting the following:

1. Relief from the Stay allowing Movant, its successors and assignees, to send to any party or parties protected by the automatic stay any and all notices required by applicable state and/or federal law or regulation, allow Movant to take such actions with respect to the Property as are provided for under applicable nonbankruptcy law, including but not limited to, informing Debtor(s) of any loan modification, short sale, or other loss mitigation options, and to proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States Code.
3. The 14 day stay described by Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived.
4. For such other relief as the court deems proper.
5. In the alternative, Movant requests that the court enter an order dismissing this Chapter 13 case.

JPMorgan Chase Bank, National Association,

By: _____ */s/ Amanda J. Wiese*
Amanda J. Wiese
One of its attorneys

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